

**STATE OF ALABAMA,  
HOUSTON COUNTY**

RECEIVED

2007 JAN 11 A 9:47

**AFFIDAVIT**

DEBRA P. HACKETT, CLK  
U.S. DISTRICT COURT  
MIDDLE DISTRICT ALA

Before me, the undersigned, a Notary Public in and for the State of Alabama at large, personally appeared John E. Byrd who is known to me and having been duly sworn deposes and says upon his oath as follows:

1. My name is John E. Byrd. I am the attorney for the Plaintiff in the Lattime Construction and Home Building, Inc, v. Centurytel Services Group, LLC, and The Berry Company case presently pending in the United States District Court for the Middle District of Alabama, Southern Division, and identified as Case No. 1:05-cv-1062-MEF. I have had good faith discussions with the attorney for the Defendants on September 11, 2006, January 2, 2007 and January 9, 2007 to furnish me the contract between the two Defendants in the case stated herein for the production of the September 2003, Centurytel telephone directory for Dothan, Alabama. The September 11, 2006, oral request after taking a deposition resulted in no contract being furnished. The January 2 and January 9, good faith discussions with Defendants attorney were the result of me filing a Request for Production of Documents to Defendants

as stated in my Motion to Compel to which this Affidavit is attached, both of which resulted in a denial by the Defendants for the production of the contract in this case.

2. I submit to the Court that the contract is relevant, will lead to admissible evidence in this case and is necessary for the preparation of this case for trial and for a just adjudication of this case as it outlines the duties and responsibilities of the Defendants to each other for the production of the directory referred to herein.

Dated this the 10 day of Jan, 2007.

Teresa L. Hering  
WITNESS  
David A. Jones  
WITNESS

John E. Byrd  
JOHN E. BYRD

Sworn to and subscribed before me on this the 10th day of

January, 2007.

Stacy Munson  
NOTARY PUBLIC  
My Commission Expires: 8/17/10